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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,562	12/09/2003	Samuel Goldsmith	TUS0273	6358

7590 09/30/2004

Valeo Climate Control Corp
Intellectual Property Dept
4100 North Atlantic Boulevard
Auburn Hills, MI 48326

EXAMINER

LU, JIPING

ART UNIT	PAPER NUMBER
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3749

DATE MAILED: 09/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/731,562	Applicant(s) GOLDSMITH, SAMUEL	
	Examiner Jiping Lu	Art Unit 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
 4a) Of the above claim(s) 8-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 14-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/9/2003</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Objections

1. Claims 16-17 are objected to because of the following informalities: the dependency of claims 16 and 17 are incorrect. Per examiner's conversation with Attorney Ronald Courtney on 9/27/2004, the dependency of claims 16 and 17 should be changed from "claim 13" to --claim 14--. Appropriate correction is required.
2. The dependent method claims 15-16 were treated as if they are dependent upon claim 14 accordingly.

Election/Restrictions

3. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-7, 14-17 are, drawn to an air treatment system, classified in class 454, subclass 156.
 - II. Claims 8-13 are, drawn to a method of controlling containments, classified in class 422, subclass 3.

The inventions are distinct, each from the other because of the following reasons:

4. Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus as claimed can be used to perform other process, e.g. air filtration.

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5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
6. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.
7. During a telephone conversation with Attorney RONALD COURTNEY on 9/27/2004 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-7 and 14-17.
8. Affirmation of this election must be made by applicant in replying to this Office action. Claims 8-13 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Specification

9. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

10. The abstract of the disclosure is objected to because the term "means" used in the abstract is improper. Correction is required. See MPEP § 608.01(b).

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11. Claims 1-7, 14-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1, 2, 14, 16, the word "means" is preceded by the word(s) "sensor", "generation", "controller" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Claim Rejections - 35 USC § 102

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. Claims 1, 2, 4, 14-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Siess (U. S. Patent Publication 2002/0176809A1).

Siess shows an air treatment system (Fig. 1) in a vehicle. The system has a sensor 70A, 76A, an oxidant generator means IZ, FG2, a controller 122, an HVAC unit 110, HC and a vehicle operator control means CM which are arranged in the same manner as claimed.

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 3, 5, 6, 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Siess (U. S. Patent Publication 2002/0176809A1).

The vehicle air treatment system of Siess as above includes all that is recited in claims 3, 5, 6, 7, 17 except for the numerical values and time limits of the ozone concentration. However, the claimed numerical values and time limits are deemed to be an obvious matter of design choice in implementing the system which produces no new or unexpected results over the prior art reference.

16. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Siess (U. S. Patent Publication 2002/0176809A1) in view of Ferone (U. S. Pat. 5,820,828).

The vehicle air treatment system of Siess as above includes all that is recited in claim 17 except for the ozone generation controlling means for controlling a series of actions involving a switch, ozone and sensors, a timer, etc. Ferone teaches an air treatment system with ozone generation controlling means (see Figs. 1-2) for controlling a series of actions involving a switch, ozone and sensors, a timer etc. same as claimed. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the control mean CM of the vehicle air treatment system of Siess to include the additional controls such as timer as taught by Ferone in order to improve the air treating efficiency.

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17. Claims 1-7 and 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ferone (U. S. Pat. 5,820,828) in view of Siess (U. S. Patent Publication 2002/0176809A1).

Ferone shows an air treatment system (Figs. 1-2) with ozone distributing system. The system has a sensor, an oxidant generator means 12, a controller 116, an HVAC unit 22 which are arranged in the same manner as claimed. However, Ferone does not teach the air treatment system is for vehicle and a vehicle operator control means. Siess shows an air treatment system (Fig. 1) in a vehicle with a vehicle operator control means CM. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to place the entire air treatment system of Ferone in a vehicle of Siess in order to provide clean air in a vehicle. With regard to the claimed numerical values, time limits of ozone concentration, they are deemed to be an obvious matter of design choice in implementing the system which produces no new or unexpected results over the prior art reference.

Conclusion

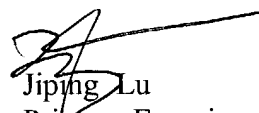
18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Holter et al. (U. s. Pat. 4,451,435), Munk (U. S. Pat. 6,432,367), Hoffman et al. (U. s. Pub. 2003/0091363 A1), Thomsen (U. S. Pub. 2004/0047776 A1), Potember et al. (U. S. Pub. 2004/0120845 A1), Lindsay (U. S. Pat. 6,773,477) all shows an air treatment system with ozonizer.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jiping Lu whose telephone number is 703-308-2354. The examiner can normally be reached on Monday-Friday, 9:00 AM - 5:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on 703 308-1935. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jiping Lu
Primary Examiner
Art Unit 3749

J. L.